

TITLE 55  
PROPERTY IN GENERAL

CHAPTER 6  
TRANSFER OF REAL PROPERTY

55-601. CONVEYANCE -- HOW MADE. A conveyance of an estate in real property may be made by an instrument in writing, subscribed by the party disposing of the same, or by his agent thereunto authorized by writing. The name of the grantee and his complete mailing address must appear on such instrument.

[(55-601) 1863, p. 528, sec. 1; R.S., sec. 2920; reen. R.C. & C.L., sec. 3105; C.S., sec. 5373; I.C.A., sec. 54-601; am. 1973, ch. 284, sec. 1, p. 600; am. 1989, ch. 105, sec. 1, p. 238.]

55-602. CONVEYANCE BY ATTORNEY IN FACT. When an attorney in fact executes an instrument transferring an estate in real property, he must subscribe the name of his principal to it, and his own name as attorney in fact.

[(55-602) R.S., sec. 2925; reen. R.C. & C.L., sec. 3110; C.S., sec. 5374; I.C.A., sec. 54-602.]

55-603. EASEMENTS PASS WITH PROPERTY. A transfer of real property passes all easements attached thereto, and creates in favor thereof an easement to use other real property of the person whose estate is transferred, in the same manner and to the same extent as such property was obviously and permanently used by the person whose estate is transferred, for the benefit thereof, at the time when the transfer was agreed upon or completed.

[(55-603) R.S., sec. 2926; reen. R.C. & C.L., sec. 3111; C.S., sec. 5375; I.C.A., sec. 54-603.]

55-604. FEE PRESUMED TO PASS. A fee simple title is presumed to be intended to pass by a grant of real property unless it appears from the grant that a lesser estate was intended.

[(55-604) 1863, p. 528, sec. 43; R.S., sec. 2927; reen. R.C. & C.L., sec. 3112; C.S., sec. 5376; I.C.A., sec. 54-604.]

55-605. ACQUISITION OF SUBSEQUENT TITLE BY GRANTOR. Where a person purports by proper instrument to convey or grant real property in fee simple, and subsequently acquires any title or claim of title thereto, the same passes by operation of law to the grantee or his successors.

[(55-605) 1863, p. 528, sec. 32; R.S., sec. 2928; reen. R.C. & C.L., sec. 3113; C.S., sec. 5377; I.C.A., sec. 54-605.]

55-606. CONCLUSIVENESS OF CONVEYANCE -- BONA FIDE PURCHASERS. Every grant or conveyance of an estate in real property is conclusive against the grantor, also against every one subsequently claiming under him, except a purchaser or encumbrancer, who in good faith, and for a valuable consideration, acquires a title or lien by an instrument or valid judgment lien that is first duly recorded.

[(55-606) R.S., sec. 2929; reen. R.C. & C.L., sec. 3114; C.S., sec. 5378; I.C.A., sec. 54-606; am. 1989, ch. 107, sec. 1, p. 247.]

55-607. UNAUTHORIZED GRANT BY LIFE TENANT. A grant made by the owner of an estate for life or years, purporting to transfer a greater estate than he could lawfully transfer, does not work a forfeiture of his estate, but passes to the grantee all the estate which the grantor could lawfully transfer.

[(55-607) R.S., sec. 2930; reen. R.C. & C.L., sec. 3115; C.S., sec. 5379; I.C.A., sec. 54-607.]

55-608. DEFEAT OF GRANT ON CONDITION SUBSEQUENT. Where a grant is made upon condition subsequent, and is subsequently defeated by the nonperformance of the condition, the person otherwise entitled to hold under the grant must reconvey the property to the grantor or his successors, by grant duly acknowledged for record.

[(55-608) R.S., sec. 2931; reen. R.C. & C.L., sec. 3116; C.S., sec. 5380; I.C.A., sec. 54-608.]

55-609. GRANT ON CONDITION PRECEDENT. An instrument purporting to be a grant of real property, to take effect upon condition precedent, does not pass the estate upon the performance of the condition. Such instrument is an executory contract for the conveyance of the property. Upon compliance with the condition, the grantee is entitled to a grant or conveyance, from the grantor or his successors, for the property, duly acknowledged for record.

[(55-609) R.S., sec. 2932; reen. R.C. & C.L., sec. 3117; C.S., sec. 5381; I.C.A., sec. 54-609.]

55-610. GRANT OF RENTS, REVERSIONS, OR REMAINDERS. Grants of rents or of reversions or of remainders are good and effectual without attornments of the tenants; but no tenant who, before notice of the grant, has paid rent to the grantor, must suffer any damage thereby.

[(55-610) 1863, p. 528, sec. 47; R.S., sec. 2933; reen. R.C. & C.L., sec. 3118; C.S., sec. 5382; I.C.A., sec. 54-610.]

55-611. GRANT OF LAND BOUNDED BY HIGHWAY. A transfer of land, bounded by a highway, passes the title of the person whose estate is transferred to the soil of the highway in front, to the center thereof, unless a different intent appears from the grant.

[(55-611) R.S., sec. 2934; reen. R.C. & C.L., sec. 3119; C.S., sec. 5383; I.C.A., sec. 54-611.]

55-612. COVENANTS IMPLIED FROM GRANT. From the use of the word "grant" in any conveyance by which an estate of inheritance, possessory right, or fee simple is to be passed, the following covenants, and none other, on the part of the grantor, for himself and his heirs, to the grantee, his heirs and assigns, are implied, unless restrained by express terms contained in such conveyance:

1. That previous to the time of the execution of such conveyance, the grantor has not conveyed the same estate, or any right, title or interest therein, to any person other than the grantee.

2. That such estate is at the time of the execution of such conveyance free from encumbrances done, made or suffered by the grantor, or any person claiming under him. Such covenants may be sued upon in the same manner as if they had been expressly inserted in the conveyance.

[(55-612) 1863, p. 528, sec. 50; R.S., sec. 2935; reen. R.C. & C.L., sec. 3120; C.S., sec. 5384; I.C.A., sec. 54-612.]

55-613. ENCUMBRANCES DEFINED. The term "encumbrances" includes taxes, assessments, and all liens upon real property.

[(55-613) R.S., sec. 2936; reen. R.C. & C.L., sec. 3121; C.S., sec. 5385; I.C.A., sec. 54-613.]

55-614. LINEAL AND COLLATERAL WARRANTIES ABOLISHED. Lineal and collateral warranties, with all their incidents, are abolished; but the heirs and devisees of every person who has made any covenant or agreement in reference to the title of, in, or to any real property, are answerable upon such covenant or agreement to the extent of the land descended or devised to them, in the cases and in the manner prescribed by law.

[(55-614) 1863, p. 528, sec. 49; R.S., sec. 2937; reen. R.C. & C.L., sec. 3122; C.S., sec. 5386; I.C.A., 54-614.]

55-615. SOLAR EASEMENTS. (1) An easement, as defined in section [50-1301](#), Idaho Code, may be obtained for the purpose of exposure of a solar energy device to sunlight. Such easement shall be known as a solar easement, shall be created in writing, and shall be subject to the same conveyancing and instrument recording requirements as other easements.

(2) Any instrument creating a solar easement shall include, but the contents shall not be limited to:

(a) The vertical and horizontal angles, expressed in degrees, at which the solar easement extends over the real property subject to the solar easement;

(b) Any terms or conditions or both under which the solar easement is granted or will be terminated;

(c) Any provisions for compensation of the owner of the property benefiting from the solar easement in the event of interference with the enjoyment of the solar easement or compensation of the owner of the property subject to the solar easement for maintaining the solar easement.

(3) A solar easement shall be presumed to be attached to the real property on which it was first created, and shall be deemed to pass with the property when title is transferred to another owner as prescribed in section [55-603](#), Idaho Code.

[55-615, added 1978, ch. 294, sec. 1, p. 741.]